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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,952	01/17/2002	Patricia S. Walker	D-2933CIP	2757
33197	7590	11/22/2006	EXAMINER	
STOUT, UXA, BUYAN & MULLINS LLP			KAM, CHIH MIN	
4 VENTURE, SUITE 300			ART UNIT	
IRVINE, CA 92618			PAPER NUMBER	
			1656	

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/051,952

Applicant(s)

WALKER, PATRICIA S.

Examiner

Chih-Min Kam

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4, 10, 12, 36-39 and 43-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 36-39 and 43-47 is/are allowed.
- 6) ☒ Claim(s) 1-4, 10 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The Request for Continued Examination (RCE) filed September 7, 2006 under 37 CFR 1.114 is acknowledged. An action on the RCE follows.

#### *Status of the Claims*

2. Claims 1-4, 10, 12, 36-39 and 43-47 are pending.

Applicant's amendment filed September 7, 2006 is acknowledged, and applicants' response has been fully considered. Claims 1, 36 and 45 have been amended, and new claims 46-47 have been added. Therefore, claims 1-4, 10, 12, 36-39 and 43-47 are examined.

#### **Withdrawn Claim Rejections - 35 USC § 103**

3. The previous rejection of claims 1, 2, 10, 12, 36, 37 and 43-45, under 35 U.S.C. 103(a) as being unpatentable over Borodic (U. S. Patent 5,183,462) taken with Vadoud-Seyedi *et al.* (Dermatology 201, 179 (2000)) and Slate *et al.* (U.S. 6,645,169), is withdrawn in view of applicants' amendment to the claims, and applicants' response at pages 4-6 of the amendment filed September 7, 2006.

3. The previous rejection of claims 3, 4, 38 and 39, under 35 U.S.C. 103(a) as being unpatentable over Borodic (U. S. Patent 5,183,462) taken with Vadoud-Seyedi *et al.* (Dermatology 201, 179 (2000)) and Slate *et al.* (U.S. 6,645,169), further in view of McCabe *et al.* (U. S. Patent 5,525,510), is withdrawn in view of applicants' amendment to the claims, and applicants' response at pages 7-8 of the amendment filed September 7, 2006.

#### ***New Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 1-4, 10 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 1-4, 10 and 12 are indefinite because the claims lack an essential step in the claimed method. The omitted step is an effective amount of botulinum toxin administered. Claims 1-4, 10 and 12 are also indefinite as to what subject has the wrinkle. Claims 2-4, 10 and 12 are included in this rejection for being dependent on a rejected claim and not correcting the deficiency of the claim from which they depend.

***Conclusion***

6. Claims 1-4, 10 and 12 are rejected; it appears that claims 36-39 and 43-47 are free of art and allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (571) 272-0948. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen Kerr can be reached at 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chih-Min Kam, Ph. D.  
Primary Patent Examiner



CHIH-MIN KAM  
PRIMARY EXAMINER

CMK

November 20, 2006